

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WILLIAM RAY COLLINS, #56532

PETITIONER

v.

CAUSE NO. 1:15cv282-LG-RHW

JIM HOOD

RESPONDENT

**ORDER OF TRANSFER PURSUANT
TO 28 U.S.C § 1631**

This matter comes before the Court, *sua sponte*, for consideration of the transfer of this case. Petitioner William Ray Collins is an inmate of the Mississippi Department of Corrections, who filed a request for habeas corpus relief in this Court on August 31, 2015, pursuant to 28 U.S.C. § 2254. In his Petition, Collins challenges his conviction for armed robbery entered on August 31, 2000, by the Circuit Court for the First Judicial District of Harrison County, and his resulting forty-year term of imprisonment. Petitioner has previously filed a Petition for habeas relief in this Court challenging this same conviction and sentence. *See Collins v. Waller*, No. 1:03-cv-304 (S.D. Miss. Dec. 29, 2006). This Court entered a Final Judgment [34] dismissing the case with prejudice on December 29, 2006.

A petitioner who files a second or successive motion for habeas relief must first apply to the appropriate court of appeals for an order authorizing the district court to consider the successive motion. *See* 28 U.S.C. § 2244(b)(3)(A). The Fifth Circuit has defined “a second or successive petition as one that 1) raises a claim challenging the petitioner’s conviction or sentence that was or could have been raised in an earlier petition; or 2) otherwise constitutes an abuse of the writ.” *Garcia v.*

Quarterman, 573 F.3d 214, 220 (5th Cir. 2009) (citing *In re Cain*, 137 F.3d 234, 235 (5th Cir. 1998)) (internal quotations omitted).

The Court finds the instant Petition to be a successive petition within the meaning of 28 U.S.C. § 2244(b)(3)(A). Petitioner has failed to submit any documentation demonstrating that he has obtained the required authorization from the United States Court of Appeals for the Fifth Circuit to file this successive petition. Therefore, this Court has determined that in the interest of justice, pursuant to 28 U.S.C. § 1631, this matter should be transferred to the United States Court of Appeals for the Fifth Circuit for a determination whether this successive or second Petition should be allowed. *See generally In re Epps*, 127 F.3d 364 (5th Cir. 1997). Accordingly,

IT IS ORDERED that this Petition for habeas corpus relief be, and the same hereby is, **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit.

IT IS, FURTHER, ORDERED that the Clerk of Court is directed to close this case pending the decision of the United States Court of Appeals for the Fifth Circuit.

SO ORDERED AND ADJUDGED this the 17th day of September, 2015.

s/ *Louis Guirola, Jr.*

Louis Guirola, Jr.
Chief United States District Judge